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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,352	07/25/2003	Vladimir Knezevic	6457-65777	2321
7590 12/28/2005 KLARQUIST SPARKMAN, LLP One World Trade Center Suite 1600 121 S.W. Salmon Street Portland, OR 97204			EXAMINER YU, MELANIE J	
			ART UNIT 1641	PAPER NUMBER

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/627,352

Applicant(s)

KNEZEVIC ET AL.

Examiner

Melanie Yu

Art Unit

1641

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 47-52.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

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12/22/05

Continuation of 3. NOTE: amendment to claim 47 presents new limitations that would raise new issues and would require further consideration and search in order to determine the patentability of the claims. Specifically, the limitation requiring each membrane to have sufficient structural integrity to permit separation from one another for further processing is not taught in the original specification. It is noted the specification teaches a substrate maintaining sufficient structural integrity on page 12, lines 1-2 of the original specification, but fails to specifically teach the sufficient structural integrity for permitting separation. Furthermore, the amendment requiring each membrane to comprise substantially identical biomolecule-permeable polymeric substrate raises new issues of clarity as to whether each membrane must be identical. Claim 53 has been added without cancelling a corresponding number of finally rejected claims.

Continuation of 11. does NOT place the application in condition for allowance because: for the reasons stated in examiner's previous office action dated 21 September 2005. Furthermore, Applicant's arguments are directed to new limitations which have not been considered or entered.

Applicant argues that the new limitation requiring "each membrane having sufficient structural integrity to permit separation from one another for further processing because Woodrum et al. teach a multilayer device wherein layers cannot be separated. Applicant argues that the layers of Woodrum et al. cannot be separated because the device "permits fixation of such layers in a laminar relationship with one another" and the test device is "dried under a cool stream of air until completely dried". However, at page 12, the instant specification teaches membranes having a polymeric substrate as having sufficient structural integrity. Woodrum et al. also teach a polymeric substrate (col. 9, lines 34-43). Although Woodrum et al. do not specifically teach separation of membranes from one another for further processing, because the membranes of Woodrum et al. and the instant application are made of the same material and are separated before being formed into a stack as described in the office action dated 21 September 2005, the membranes of Woodrum et al. would have sufficient structural integrity to be capable of permitting separation from one another for further processing.

Applicant also argues that the limitation requiring that targeted biomolecules are captured and identified on one or more of the membranes after the membranes are separated overcomes the prior art rejection under 35 USC 103(a) over Woodrum et al. in view of Greenquist et al. and Ciechanover et al. However such a limitation is drawn to the use of a kit, and does not carry patentable weight. Since the references of Woodrum et al. in view of Greenquist et al. and Ciechanover et al. teach the physical limitations of the kit, the kit would be capable of performing the recited use.